

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
OCT 31 2000
CLERK, U.S. DISTRICT COURT
By _____ Deputy *[Signature]*

CIVIL ACTION NO.
3:99-CV-2038-M

Defendant.

Bertha A. Harris (“Harris”), Barrie E. Kiger-Nagy (“Kiger-Nagy”) and Lee M. Shaffer (“Shaffer”) (collectively, the “Plaintiffs”) respectfully submit their Motion to Confirm Arbitration Award and show the following:

1. On March 24, 2000 Plaintiffs and Defendant Parker College of Chiropractic (“Defendant”) submitted a Joint Motion to Submit Case to Arbitration. Pursuant to the parties’ motion, the case proceed to arbitration before arbitrator Kathy Fragnoli.

2. On October 1, 2000 Arbitrator Fragnoli issued her Award (the “Award”), a true and correct copy of which is attached hereto as Exhibit “A.” The Award is incorporated herein by reference.

3. The agreement of the parties, and the Joint Motion to Submit Case to Arbitration, provide that the claims should be arbitrated under the Texas Arbitration Act. A true and correct copy of the subject arbitration clause is attached hereto as Exhibit “B.”

4. Pursuant to the arbitration clause and the agreement of the parties, “[t]he Award of the Arbitrator shall be binding on the parties hereto, although each party shall retain his right to appeal any questions of law, and judgment may be entered thereon in any court having jurisdiction.”

5. Plaintiffs move to confirm the Award pursuant to TEX. CIV. PRAC. REM. CODE § 171.087 which provides that: “[u]nless grounds are offered for vacating, modifying, or correcting and Award under Section 171.088 or 171.091, the Court, on application of a party, shall confirm the Award.” Plaintiffs state that there are no bases for vacating, modifying or correcting the Award under Civil Practices and Remedies Code §§ 171.088 or 171.091.

6. Plaintiffs ask this Court to enter judgment on the Award in accordance with TEX. CIV. PRAC. & REM. CODE § 171.092(a) and in accordance with the stipulation of the parties, attached as Exhibit “C.”

7. Plaintiffs further request that the Court permit the arbitrator to award costs of the application and proceeding subsequent to this motion to confirm as well as disbursements in accordance with TEX. CIV. PRAC. & REM. CODE § 171.092(b).

8. Plaintiffs tender the proposed form of judgment, attached hereto as Exhibit “D.”

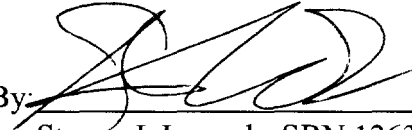
WHEREFORE, Plaintiffs pray that this Court enter judgment confirming the Award and entering and awarding recovery to Plaintiffs in the amounts to the extent set forth above and in accordance with the stipulation of the parties concerning attorney’s fees, costs of the motion to confirm and proceedings subsequent to this application for confirmation, disbursements, and such other and further relief to which they may be justly entitled.

OF COUNSEL:

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Respectfully submitted,

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By: 
Steven J. Lownds, SBN 12636800

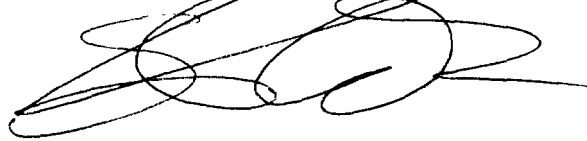
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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

On October 20, 2000 the undersigned conferred with Mike Maslanka, counsel for Parker College, concerning this motion. Agreement could not be reached and Mr. Maslanka stated that he is opposed to the motion. It is therefore presented to the court for determination.

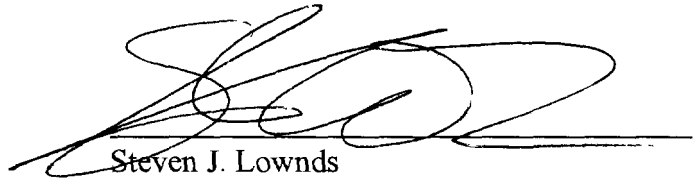


Steven J. Lownds

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served via certified mail, return receipt requested on the **31st** day of **October, 2000**, by upon the following counsel of record:

Michael P. Maslanka
4800 Renaissance Tower
Dallas, Texas 75270-2146



Steven J. Lownds